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RECORDATION NO. \_\_\_\_\_ Filed & Recorded

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**CHattel Mortgage Security Agreement**

**COVERING GRAIN HOPPER RAILROAD CARS STATE COMMERCE COMMISSION**

**KNOW ALL MEN BY THESE PRESENTS, That:**

WHEREAS, the undersigned, MORRISON-QUIRK GRAIN CORPORATION, a Nebraska corporation duly organized and existing under the laws of the State of Nebraska, having its principal office and place of business at Hastings, Nebraska (herein called "Mortgagor") has or will borrow from THE FIRST NATIONAL BANK OF CHICAGO, a national banking association, having its principal office and place of business at One First National Plaza, Chicago, Illinois (herein called "Mortgagee"), the principal sum of One Million Dollars (\$1,000,000) represented by a note dated as of September 14, 1973 (herein called the "Note") the principal sum of which is payable as follows: 39 installments of \$25,000 each, payable quarterly upon the first day of February, May, August and November in each year hereafter beginning November 1, 1973, and a final installment of \$25,000 on August 1, 1983, at the office of the payee in lawful money of the United States, together with interest on the unpaid balance of each principal installment from the date thereof until the maturity of such installment at a rate per annum equal to  $117\frac{1}{2}\%$  of the sum of the corporate base rate of interest of Mortgagee plus 1% payable quarterly on the first day of February, May, August and November in each year, beginning November 1, 1973, and at maturity, such Note being or having been issued pursuant to the terms and provisions of a Term Loan Agreement dated as of September 14, 1973 between the Mortgagor and Mortgagee.

WHEREAS, as security for the payment of the Note and any other evidences of indebtedness hereafter given by the Mortgagor to the Mortgagee, the Mortgagee has required and the Mortgagor has agreed that certain grain hopper railroad cars owned by the Mortgagor be mortgaged as hereinafter provided to the Mortgagee.

NOW, THEREFORE, in consideration of the premises and to secure the prompt and punctual payment of the Note and any other evidences of indebtedness which may hereafter be given by the Mortgagor payable to the order of the Mortgagee prior to the release of this mortgage, and of each and every installment of principal and interest of the Note, or other indebtedness secured hereby, and of any extensions or renewals from time to time of any thereof, or any installment thereof, Mortgagor does hereby mortgage, assign, transfer, set over and convey unto the Mortgagee, its successors and assigns, all and singular the grain hopper railroad cars more fully described in Schedule A attached hereto and by reference incorporated herein, together with all fittings, appliances, additions, accessions and attachments now or hereafter connected therewith, and any replacements of any parts thereof or additions thereto, together with the proceeds of all of the foregoing.

TO HAVE AND TO HOLD said property hereby granted, transferred, assigned and mortgaged unto the Mortgagee, its successors and assigns, forever, free and clear of all encumbrances of whatsoever kind or character, and the Mortgagor does hereby covenant and agree with the Mortgagee, its successors and assigns, as follows:

FIRST: That it is the owner and in possession of each and all of said grain hopper railroad cars, and that there are no encumbrances or liens of any kind or character against any of said property, and that it has good right and lawful authority to transfer, convey, assign and mortgage the same; that an office of the Mortgagor is located at Box 609, Hastings, Nebraska, that the City of Hastings, State of Nebraska is hereby declared to be the home port of each of said grain hopper railroad cars, and that

at the time of the execution hereof all of such property is under the control of the Hastings, Nebraska office of Mortgagor and is being operated out of Hastings, Nebraska as the home port of such grain hopper railroad cars.

SECOND: That it will not voluntarily create or suffer to be created or to arise any lien or charge upon any of the property described herein and mortgaged hereby having priority to or preference over the lien of these presents upon said mortgaged property, or any part thereof, and that it will pay all lawful claims and demands of all persons whomsoever which, if unpaid, might by law be given preference as to this mortgage as a lien or charge upon said mortgaged property, or any part thereof.

THIRD: That it will at all times during the time this mortgage is in force and effect keep all said grain hopper railroad cars in first-class condition and repair.

FOURTH: That it will forthwith cause to be painted upon the sides of each of said grain hopper railroad cars, in letters not less than one inch in height, the words "The First National Bank of Chicago, Mortgagee", so located as to be readily visible and to indicate plainly that said grain hopper railroad cars are mortgaged to Mortgagee, and will, at its own cost, cause said markings to be maintained so long as this mortgage remains in force and effect; and Mortgagor further covenants that the markings upon said grain hopper railroad cars, above described, indicating the name of the owner and the numbers thereof, shall not be changed without the previous written consent of the Mortgagee, and shall be maintained by Mortgagor at its own cost, so that the same shall be plainly visible so long as this mortgage remains in force and effect.

FIFTH: That it will pay and discharge all taxes, assessments and governmental charges lawfully imposed upon any part of said mortgaged property, as well as any demurrage or freight charges against the same, so that the priority of this mortgage shall be fully preserved in respect to said property.

SIXTH: That it will cause to be insured and kept insured by a company acceptable to Mortgagee against loss or damage (against fire and other casualties in such manner and to the extent insured by others owning similar grain hopper railroad cars) all of the grain hopper railroad cars mortgaged by this instrument, the policies of insurance to have included therein a clause providing for the payment of any loss to Mortgagee to the extent of the unpaid portion of said indebtedness secured hereby, and said policies will be delivered to Mortgagee and said Mortgagor will promptly pay any and all premiums for such insurance. The Mortgagee shall be entitled to receive payment from any person liable therefor for any loss or damage to said grain hopper railroad cars which may occur from causes not covered by such insurance.

SEVENTH: That it will exercise all reasonable care in the protection and possession of said property so long as said indebtedness remains unpaid, and that the property so mortgaged and pledged by this instrument shall not during such time be sold, encumbered, or otherwise disposed of.

EIGHTH: That if default be made pursuant to the terms of the Term Loan Agreement (as amended, extended or modified) or if Mortgagor should fail to observe or perform any of the covenants or agreements herein or in the Note contained (all of which shall be deemed "events of default"), then in any such event all sums provided by the Note, or other indebtedness secured hereby to be paid, may, at the option of the holder thereof, and without notice to Mortgagor, become due and payable and the Mortgagee shall thereupon be entitled to any or all of the following remedies, which shall not be exclusive but shall be cumulative of any other rights or remedies at law or in equity which the Mortgagee may have, to-wit:

(a) To demand and within three days thereafter to receive from Mortgagor peaceable possession of all said grain hopper railroad cars at some place designated by the Mortgagee upon

the tracks in Chicago, Illinois, Mortgagor agreeing that it will, at its own expense, within said three days, deliver possession of said grain hopper railroad cars to the Mortgagee at the place so designated, and in case of the failure of Mortgagor so to do, possession of said grain hopper railroad cars may be taken by the Mortgagee wherever the same may be found, and at the election of Mortgagee may be removed by Mortgagee to a location or locations acceptable to Mortgagee, all at the expense of Mortgagor, and for the purpose of having said grain hopper railroad cars removed Mortgagor agrees that it will, upon demand, deliver to the Mortgagee, or its assigns, possession of all records it may have showing or tending to show the location of said grain hopper railroad cars, and Mortgagee, by any of its officers or agents, in the name of Mortgagor, may give any orders, directions, or instructions to any railroad company or other person, and may sign Mortgagor's name to any transfer, documents and agreements for the purpose of removing said grain hopper railroad cars, and may pay the expense of such removal and recover same from the proceeds of the sale of any of the mortgaged grain hopper railroad cars.

(b) The Mortgagee, its agents, attorneys or representatives, shall have the right and power, with or without exercising any of the rights given in the preceding subsection, to sell at public auction, to the highest bidder, for cash, at one or more sales, all or any part of the mortgaged property upon giving notice of the time and place thereof, by posting same at five public places, in the County in which such sale is to be held at least 10 days prior thereto, one of which places shall be the place where such sale is to be held, or by giving notice at least 10 days before such sale, by publication thereof in a newspaper published at least weekly in such County, and of general circulation therein, and by giving such other notice as may be required by law at the place where such sale shall be held. Any such sale may be held at the courthouse door, or at any place where sales at public auction are customarily held in any county in any state in which any of the property to be sold may at the time be located, or at the courthouse door in the County of Cook, State of Illinois. Notice to Mortgagor of any such sale shall be deemed to have been duly given if, not less than 10 days before the date of such sale, a copy of such notice shall be delivered to it or mailed by ordinary mail addressed to Mortgagor at Box 609, Hastings, Nebraska. It shall not be necessary that the Mortgagee or the person conducting said sale be in actual or constructive possession of said property at the time of such sale, or that the same be physically present at such sale, nor shall it be necessary, if said sale be held in Cook County, Illinois, that said property be actually present in the county of the state in which said sale is held; and the title and right of possession to such property shall pass to the purchaser at such sale as completely as if said property had been actually present and delivered at such sale, and Mortgagor covenants and agrees to deliver all of such property to the purchaser within 10 days thereafter, and for that purpose to execute and deliver all proper instructions, orders, or documents to any railroad company, or other person, and such other and further assurances as may be proper or required; and such purchaser shall be entitled to exercise all the rights and privileges herein given to the Mortgagee in the preceding subsection (a) hereof for the recovery of possession of any of said grain hopper railroad cars. At any such sale the Mortgagee, if the highest bidder therefore, may become the purchaser of any such property. The proceeds of any such sale shall be applied:

First: To the payment of all costs and expenses of such sale, including any expenses which may have been advanced or incurred by the Mortgagee in recovering possession or custody of, or in causing the return of said property to the place of sale, if any, together with an attorney's fee of 10% of the amount realized at such sale, as a fee for the foreclosure hereof.

Second: To the payment of the indebtedness secured by this mortgage, with interest and attorney's fees.

Third: Any excess shall be paid to Mortgagor or its assigns.

(c) The Mortgagee may proceed by action or actions in any court or courts of competent jurisdiction to foreclose this mortgage.

The provisions of this mortgage shall be binding upon the successors and assigns of Mortgagor and shall inure to the benefit of the successors and assigns of the Mortgagee.

This mortgage is being delivered in Chicago, Illinois and it is the intention of the parties that this mortgage be construed in accordance with and be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, Morrison-Quirk Grain Corporation and The First National Bank of Chicago have caused this instrument to be executed in their respective names by their duly authorized officers and their respective seals to be hereunto affixed, duly attested as of this 14th day of September, 1973.

MORRISON-QUIRK GRAIN CORPORATION

By: *Samuel Morrison*  
Title President.....

(CORPORATE SEAL)

ATTEST:

*Robert H. Huns*  
Secretary

(BANK SEAL)

ATTEST:

*Gil Campbell*  
Title .. VICE PRESIDENT ..

THE FIRST NATIONAL BANK OF CHICAGO

By: *Robert A. Seaman*  
Title *Assistant Vice Pres.*

STATE OF NEBR. }  
COUNTY OF ADAMS } ss.

On this 14th day of September, 1973, before me personally appeared Kenneth Morrison, to me personally known, who being by me duly sworn says that he is ~~x~~ President of MORRISON-QUIRK GRAIN CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Norma Rippen*  
Notary Public

(NOTARIAL SEAL)



**NORMA RIPPEN**  
GENERAL NOTARY - State of Nebr.  
My Commission Expires

My Commission expires:

March 24, 1977

Nebraska  
STATE OF ~~ILLINOIS~~ }  
COUNTY OF ~~COOK~~ } ss.  
Adams

On this 14th day of September, 1973, before me personally appeared Robert A. Gunst, to me personally known, who being by me duly sworn says that he is an Assistant Vice President of THE FIRST NATIONAL BANK OF CHICAGO, that the seal affixed to the foregoing instrument is the bank seal of said Bank, that said instrument was signed and sealed on behalf of said Bank by proper authority, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Bank.

*Norma Rippen*  
Notary Public

(NOTARIAL SEAL)



**NORMA RIPPEN**  
GENERAL NOTARY - State of Nebr.  
My Commission Expires

My Commission expires:

March 24, 1977

## SCHEDULE A

<u>Qty.</u>	<u>Description</u>	<u>Lt. Wght.</u>	<u>Railroad Road No.</u>
1	Pullman Standard 100 ton triple center dump covered hopper car	60000	MQGX 1
1	"	60000	MQGX 2
1	"	60000	MQGX 3
1	"	60000	MQGX 4
1	"	60200	MQGX 5
1	"	60000	MQGX 6
1	"	60200	MQGX 7
1	"	60300	MQGX 8
1	"	60200	MQGX 9
1	"	60300	MQGX 10
1	"	60300	MQGX 11
1	"	60200	MQGX 12
1	"	60300	MQGX 13
1	"	60200	MQGX 14
1	"	60000	MQGX 15
1	"	60000	MQGX 16
1	"	60100	MQGX 17
1	"	60200	MQGX 18
1	"	60200	MQGX 19
1	"	60300	MQGX 20
1	"	60300	MQGX 21
1	"	60000	MQGX 22
1	"	60100	MQGX 23
1	"	60000	MQGX 24
1	"	60300	MQGX 25
1	"	60300	MQGX 26
1	"	60100	MQGX 27
1	"	60200	MQGX 28
1	"	60000	MQGX 29
1	"	60000	MQGX 30
1	"	60000	MQGX 31
1	"	60000	MQGX 32
1	"	59800	MQGX 33
1	"	60200	MQGX 34
1	"	60200	MQGX 35
1	"	60100	MQGX 36
1	"	60200	MQGX 37
1	"	60100	MQGX 38
1	"	60100	MQGX 39
1	"	60200	MQGX 40
1	"	60100	MQGX 41
1	"	60200	MQGX 42
1	"	60100	MQGX 43
1	"	60100	MQGX 44
1	"	60100	MQGX 45
1	"	60200	MQGX 46
1	"	60200	MQGX 47
1	"	60200	MQGX 48
1	"	60100	MQGX 49
1	"	60200	MQGX 50
1	"	60200	MQGX 51
1	"	60000	MQGX 52
1	"	60100	MQGX 53
1	"	60200	MQGX 54
1	"	60100	MQGX 55
1	"	59200	MQGX 56
1	"	60100	MQGX 57
1	"	60200	MQGX 58
1	"	60200	MQGX 59